



ADOT Contract No:
TPD Contract No: T-00-000-00
Project No: AZ-16-0032 G320001T
Section 5310 Transit Program

CONTRACT

BETWEEN

**THE STATE OF ARIZONA, acting for and on the behalf of the
DEPARTMENT OF TRANSPORTATION**

AND

**INSERT CONTRACTOR NAME
1234 N. Something Street
Somewhere, AZ 85000**

a Private non Profit Organization

THIS AGREEMENT is made and entered into this ____ day of _____, 2008 by and between _____, hereinafter called "CONTRACTOR" or "RECIPIENT" and the State of Arizona for and on the behalf of the DEPARTMENT OF TRANSPORTATION hereinafter called "ADOT" or "STATE".

RECITALS

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-334, to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
2. The Recipient is empowered to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Contractor.
3. 49 U.S.C. § 5310 of the Transportation Equity Act for the 21st Century (TEA 21) allows for capital grants to States to assist private nonprofit corporations and associations in providing transportation services which meet the special needs of elderly persons and persons with disabilities for whom mass transportation services are unavailable, insufficient or inappropriate.

4. The Governor of the State of Arizona, in accordance with a request by the Federal Transit Administration, hereinafter referred to as FTA, has designated the Department of Transportation as the responsible agency to evaluate and select projects proposed by private nonprofit organizations and to coordinate the grant applications. The Section 5310 Guidelines and Application, incorporated herein by reference, prescribes the State's Administrative Policies for the Program.
5. The State and the Recipient desire to secure project equipment through the expenditure of grant funds and to utilize said equipment for the transportation needs of the elderly persons and persons with disabilities of the State of Arizona.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL AGREEMENTS EXPRESSED HEREIN, THE PARTIES AGREE AS FOLLOWS:

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE

1. The Recipient shall provide transportation services to elderly persons and persons with disabilities hereinafter called the Project, in accordance with the Recipient's Application, which is attached hereto as Attachment A and incorporated herein.
2. This agreement shall begin upon full execution by the parties hereto and shall continue until terminated by either party upon thirty days written notice, or other competent authority.
5. The Project equipment, which is the subject of this agreement, is described as follows:

VEHICLE TYPE: _____

SERIAL NUMBER: _____

PURCHASE PRICE: _____
(Invoice)

LIEN AMOUNT: _____

III. TERMS and CONDITIONS of AGREEMENT

1. **Termination for Convenience.** This Agreement may be terminated by either party at any time upon thirty (30) days written notice to the other party of intent to terminate.
2. **Termination for Breach.** If either party fails to abide by the terms and conditions of this agreement, this agreement may be terminated upon ten (10) days written notice by the party claiming breach to the other party.
3. **Cancellation for Conflict of Interest.** Pursuant to A.R.S. §§ 38-511, the State may cancel this Contract without penalty or further obligation in any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State is or becomes at any time while the contract or an extension of the Contract is in effect an employee of or a consultant to any party to this contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that employment or a gratuity was offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the State for the purpose of influencing the securing of the Contract, an amendment of the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision regarding Contract performance.
4. **Matching and Federal Funding.** An estimate of the Project cost is indicated in Attachment A, Application Form B, with specific capital purchase costs noted above. The Recipient will provide, from sources other than federal funds, the amount needed in addition to the Grant to assure payment of the actual Project cost. The Recipient shall initiate and complete all actions necessary to provide its share of the Project costs at or prior to the time that such funds are needed. The State will typically* notify the Recipient regarding specific local match requirements—and may require that Project costs (local matching and related administrative fees) be remitted to the State—well in advance of the signing of this agreement, with no specific timeframe offered by the State for delivery of awarded grant equipment, in order to meet the financial management input and reporting requirements of the State.
 - 4.1 Certain circumstances, such as one Recipient reneging on required local funds, may require the State to notify on very short notice another prospective Recipient that funds are required within a much shorter timeframe than is otherwise typical. In these circumstances, refund—if any—of all or a portion of matching funds to the original (reneging) Recipient cannot take place until the new Recipient transaction is complete. It is understood that no guarantee regarding timeframe is made regarding remittance of refund to the original (reneging) Recipient. Refunds do not typically include fees outside capital (invoice-based) matching funds.

5. **Liens on Equipment.** The purchase of Project equipment shall be undertaken by the State on behalf of the Recipient. The Project equipment shall be titled in the name of the Recipient. To the extent of financial assistance provided, the State shall hold a first lien on all capital equipment acquired under this agreement in the amount of the federal share of the equipment cost. Attached to this agreement, as Attachment B, is the security agreement evidencing the State as the first lien holder. The lien placed on the equipment, if a vehicle, remains in effect for four years or 100,000 miles, whichever occurs first, from issuance of title unless this agreement is otherwise terminated earlier under terms stated herein—or four years from issuance of equipment if not a vehicle. Lien release is not automatic; it is incumbent upon the Recipient to request release. It is further incumbent upon the Recipient during the course of the lien period to abide by all requirements and guidance stated in the applicable State “...Section 5310 Program Guidelines and Application...” document as well as any additional guidance given to the Recipient. These requirements include, but are not necessarily limited to, maintenance of the equipment—at a minimum—within factory-stated parameters, annual reporting to the State of pertinent Recipient administrative and vehicle performance information, and timely incident reporting and situation resolution pursuant to same Guidelines and related communication from the State.
6. **Surrender of Equipment.** If this Agreement is terminated for any reason, the Contractor shall surrender any equipment provided by the Agreement for the purposes of utilizing products or services pursuant to this Agreement.
7. **Term of Agreement.** The initial term of this Agreement shall commence on _____, 2008 and shall terminate on _____ 2012. Thereafter it shall be deemed renewed for successive one-year terms as of July 1 of each year, up to a maximum of 60 months, unless terminated pursuant to the terms of this Agreement.
8. **Non-availability of Funds.** Every payment obligation of the State under this Contract is contingent upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
9. **Audit of Records.** Pursuant to A.R.S. §§ 35-214 and 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data, books and other records (“records”) relating to this Contract for a period of five years after completion the contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce the original of any or all such records.

10. **Non-Discrimination.** The Contractor shall comply with Executive Order 99-4 which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities and all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.
11. **Third Party Antitrust Violations.** The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to the Contractor toward fulfillment of this Contract.
12. **General Indemnification.** To the extent permitted by A.R.S. § 41-621 and § 35-154, the State of Arizona shall be indemnified and held harmless by the Contractor for its vicarious liability as a result of entering into this Contract. Each party to this Contract is responsible for its own negligence.
13. **Arbitration.** The parties to the Contract agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.
14. **Incorporation of Federal Transit Administration (FTA) Terms.** All contractual provisions required by the U.S. DOT, as set forth in FTA Circular 4220.1E dated June 19, 2003, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall comply with all federal, state and local regulations. All federal clauses shown in the FTA Master Agreement apply to this contract. The Federal Transit Administration Master Agreement can be viewed in its entirety on the following page of the FTA website <http://www.fta.dot.gov/documents/12-Master.doc> The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any ADOT requests, which would cause ADOT to be in violation of the FTA terms and conditions.

15. **Modifications and Other Changes to Grant Equipment.** Prior to any substantive modifications or other changes made or elimination, reduction or addition to grant equipment, written approval from an authorized State grant program official must first be obtained. Examples include the elimination of wheelchair positions and addition of ambulatory seating, reduction in number or addition of passenger assist stanchions, rails, steps, and other devices requiring or otherwise exposing or altering mechanical or structural modification to the vehicle. *For lift-equipped vehicles also see the attachment to the Security Agreement to this contract, "Secondary Manufacturer and Aftermarket Vehicle Components As Part of Lien."*
16. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the subject matters hereof, and it may be amended, modified, or waived only by an instrument in writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials on the aforementioned date.

**ARIZONA DEPARTMENT OF
TRANSPORTATION**

[INSERT CONTRACTOR NAME]

Director

[INSERT NAME/TITLE]

DATED: _____

DATED: _____

ATTACHMENT B

SECURITY AGREEMENT

(Please note: Attachment A is the Application Itself)

In consideration of the State of Arizona, acting by and through its Department of Transportation, hereinafter referred to as DEPARTMENT, purchasing the Project equipment identified as:

VEHICLE TYPE: _____

SERIAL NUMBER: _____

and conveying title thereto, _____, hereinafter referred to as Recipient hereby grants the Department a security interest in the Project equipment in the amount of \$00,000.00, payable to the Department upon its demand, if and only if:

1. The Recipient by itself or any agent, (whether authorized to do so or not) sells, transfers, offers or attempts to sell or transfer, in whole or in part, the Project equipment, or,
2. The Project equipment is totally destroyed or is lost, stolen or otherwise disappears, or,
3. ADOT Contract No. T-00-000-00 entered into on 00/00/2008 by and between Department and Recipient is terminated.

In the event of the occurrences described in Paragraphs 1 or 3 above, the Recipient shall be liable for no more than the fair market value of the Project equipment on the date of the occurrence of such event.

In the event the Project is totally destroyed, lost, stolen, or disappears, the obligation herein may be extinguished by assigning to the Department the proceeds of insurance covering such an event, provided the assignment and the ultimate payment is equal to the fair market value of the Project equipment on the date of occurrence of such event.

Upon the occurrence of any other event described herein which would allow the Department to demand payment under this agreement, the obligation assured herein may be extinguished by assigning the herein Project equipment to the Department in as good a condition as when received, normal wear and tear excepted, thereby no longer having any further obligation to reimburse the State should the State exercise its right to terminate the agreement under the terms of the agreement under paragraph (2) of Section III. The Department may refuse to accept such assignment, if in its sole judgment, the Project equipment has been abused or is in such condition as to substantially impair its value.

At the end of the useful, economical life of the Project equipment, as defined in the ADOT Section 5310 Guidelines and Application for the Project year, the equipment may be returned to the State subject to its acceptance, and the obligation herein will be extinguished.

Attached—on wheelchair lift-equipped vehicle contracts only—is a non-inclusive list of components typically considered part of the vehicle lien, titled “*Secondary Manufacturer and Aftermarket Vehicle Components as Part of the Lien for Lift Equipped Vehicles.*” In the event of a vehicle transfer back to ADOT or another Recipient during the subject lien period, these components—in addition to the original equipment manufacturer’s (OEM) components (as supplied by the manufacturer or vendor to ADOT) or their equivalent—must remain with the vehicle as delivered by ADOT to the Recipient. **For all other vehicles and equipment,** the OEM components—as delivered by ADOT to the Recipient (or their equivalent replacement)—are considered to be included in the lien.

This Security agreement and its terms shall not inure to the benefit of any assignee, purchaser for value or any other person acquiring an interest herein, and this security interest herein created shall not be extinguished until and unless the State receives the fair market value of the Project equipment on the date of assignment, purchase or acquisition of other interest.

BY: _____

TITLE: _____

DATE: _____

Secondary Manufacturer and Aftermarket Vehicle Components

As Part of the Lien for Lift-Equipped Vehicles

In addition to the Original Equipment Manufacturer (OEM—i.e., Ford, Dodge, Chevrolet, etc.) chassis, the Secondary Manufacturer adds to this chassis the following equipment, non inclusive, ** which are considered part of the vehicle and therefore remain on lien with the vehicle, along with OEM components* (Note: as a part of the vehicle modifications, the Secondary Manufacturer may also remove some OEM parts, replacing with after-market items):

- Fast idle system, after-market alternator (200A) replacing OEM unit, related wiring, accessory drive belts and pulleys (varies by vehicle type, alternator and A/C compressor configuration), inside vehicle-located electrical fuse, fuse block and breaker box with key(s),
- Under-hood or elsewhere on chassis, dual deep cycle marine batteries, in some vehicles combined with an isolator system,
- Adjacent to, behind and above the front windshield area, a separate or modified body which is manufactured and installed in the driver and passenger compartment area to accommodate the driver, his/her vehicle and accessory system controls, and passenger, mobility-device and safety equipment. This body construction or modification typically includes related after-market windows, passenger service entry door(s), emergency rear door(s), and emergency exit/access door (i.e., hatch, roof mounted). The degree to which OEM equipment and body parts (including doors, windows, etc.) are *removed permanently* by the secondary manufacturer for the latter's vehicle modification purposes varies by whether the vehicle is a dual-rear wheel cutaway or single rear wheel raised roof lift van,
- Passenger (and on some vehicles, driver's) seats and, where required, seat belts,
- Passenger ingress, egress and other assist stanchions and handrails, modesty panels,
- Wheelchair lift door, lift mechanism and related control apparatus at the lift and driver area, related transmission/brake interlock equipment preventing unwanted motion of the vehicle when door is ajar and/or lift is otherwise in operation,
- Wheelchair position components, related restraint and securement belts and belt storage,
- Added springs or other weight compensating devices to suspension,
- Additional equipment related to dual battery installation (in some units),
- Basic first aid kit and other emergency/safety items, typically including flares, reflector triangles and fire extinguisher, wide-view internal rearview mirror, and outside rearview "RV-style" mirrors, internal and external lighting for lift, access doors and interior of vehicle, reverse alarm (some vehicles),
- Rear heater and related lines and under-body flow controls,
- Air conditioning equipment for rear passenger area including added condenser(s) (street-side "skirt" mounted), rear compartment evaporator, related refrigerant lines, air outlets and controls, on some units added (second) compressor and related belts and pulleys.

If the recipient-agency returning the vehicle to ADOT is uncertain regarding any particular component, it may contact ADOT or the issuing vendor regarding that component(s). The recipient should otherwise assume that any component supplied on or with the vehicle at the time of delivery to the recipient should be returned to ADOT in its originally-removed state.

Other equipment purchased by ADOT (on behalf of the recipient-agency) to remain with vehicle or otherwise be returned to the Department upon request:

- After-market communication radios or other communication equipment, if it is supplied by ADOT and the Department has no reason to believe the recipient agency should have further legitimate use of the equipment.

* This list notes only "major" items added by the after-market supplier. The vendor and ADOT retain on file complete parts listings that will be reviewed by the Department and/or vendor upon return of the vehicle to the Department and/or prior to transfer of the vehicle to another recipient agency.